

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 321

Introduced by Wehrbein, 2

Read first time January 14, 2003

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to the Public Service Commission; to amend
2 sections 75-116, 75-305, and 88-529, Reissue Revised
3 Statutes of Nebraska, and sections 75-128, 75-156, and
4 75-903, Revised Statutes Supplement, 2002; to provide and
5 change fees; to provide for the disposition of fees; to
6 harmonize provisions; to provide an operative date; and
7 to repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 75-116, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 75-116. Each regulated motor carrier as defined in
4 section 75-302 or common carrier required to furnish an annual
5 report with a federal regulatory agency shall file a copy of the
6 report with the commission on or before the date on which such
7 report is filed with such agency. Each such carrier not required
8 to file an annual report with a federal regulatory agency may be
9 required to file an annual report with the commission in the form
10 prescribed by the commission on or before April 30 of each year.
11 Each carrier which files an annual report or a copy of an annual
12 report under this section shall submit a fee of twenty-five dollars
13 with the filing. The commission shall remit the fees received to
14 the State Treasurer for credit to the General Fund.

15 Sec. 2. Section 75-128, Revised Statutes Supplement,
16 2002, is amended to read:

17 75-128. (1) It is hereby declared to be the policy of
18 the Legislature that all matters presented to the commission be
19 heard and determined without delay. All matters requiring a
20 hearing shall be set for hearing at the earliest practicable date
21 and in no event, except for good cause shown, which showing shall
22 be recited in the order, shall the time fixed for hearing be more
23 than six months after the date of filing of the application,
24 complaint, or petition on which such hearing is to be had. Except
25 in case of an emergency and upon a motion to proceed with less than
26 a quorum made by all parties and supported by a showing of clear
27 and convincing evidence of such emergency and benefit to all
28 parties, a quorum of the commission shall hear all matters set for

1 hearing. Except as otherwise provided in section 75-121 and except
2 for good cause shown, a decision of the commission shall be made
3 and filed within thirty days after completion of the hearing or
4 after submission of affidavits in nonhearing proceedings.

5 (2) In the case of any proceeding upon which a hearing is
6 held, the transcript of testimony shall be prepared and submitted
7 to the commission prior to entry of an order, except that it shall
8 not be necessary to have prepared prior to a commission decision
9 the transcripts of testimony on hearings involving noncontested
10 proceedings and hearings involving emergency rate applications
11 under section 75-121.

12 (3) For each application, complaint, or petition filed
13 with the commission, except those filed under sections ~~75-301 to~~
14 ~~75-322, there shall be charged~~ 75-303.01 and 75-303.02, the
15 commission shall charge a filing fee to be determined by the
16 commission, but in an amount not to exceed the sum of ~~fifty five~~
17 hundred dollars, payable at the time of such filing. ~~There shall~~
18 ~~also be charged~~ The commission shall also charge to persons
19 regulated by the commission a hearing fee of ~~fifty dollars to be~~
20 determined by the commission, but in an amount not to exceed the
21 sum of two hundred fifty dollars, for each half day of hearings if
22 the person regulated by the commission files an application,
23 complaint, or petition which necessitates a hearing.

24 (4) For each new tariff filed with the commission, except
25 those filed under sections 75-301 to 75-322, the commission shall
26 charge a fee not to exceed fifty dollars. This subsection does not
27 apply to amendments to existing tariffs.

28 (5) The commission shall remit the fees received to the

1 State Treasurer for credit to the General Fund.

2 Sec. 3. Section 75-156, Revised Statutes Supplement,
3 2002, is amended to read:

4 75-156. (1) In addition to other penalties and relief
5 provided by law, the Public Service Commission may, upon a finding
6 that the violation is proven by clear and convincing evidence,
7 assess a civil penalty of up to ten thousand dollars per day
8 against any person, motor carrier, regulated motor carrier, common
9 carrier, or contract carrier for each violation of (a) any
10 provision of sections 75-301 to 75-390 administered by the
11 commission or section 75-126 as such section applies to any person
12 or carrier specified in sections 75-301 to 75-390, (b) a commission
13 order entered pursuant to the Automatic Dialing-Announcing Devices
14 Act, the Emergency Telephone Communications Systems Act, the
15 Intrastate Pay-Per-Call Regulation Act, the Nebraska
16 Telecommunications Regulation Act, the Nebraska Telecommunications
17 Universal Service Fund Act, or the Telecommunications Relay System
18 Act, (c) any term, condition, or limitation of any certificate or
19 permit issued by the commission pursuant to sections 75-301 to
20 75-390, or (d) any rule, regulation, or order of the commission
21 issued under authority delegated to the commission pursuant to
22 sections 75-301 to 75-390. The civil penalty assessed under this
23 section shall not exceed two million dollars per year for each
24 violation. The amount of the civil penalty assessed in each case
25 shall be based on the severity of the violation charged. The
26 commission may compromise or mitigate any penalty prior to hearing
27 if all parties agree. In determining the amount of the penalty,
28 the commission shall consider the appropriateness of the penalty in

1 light of the gravity of the violation and the good faith of the
2 violator in attempting to achieve compliance after notification of
3 the violation is given.

4 (2) Upon notice and hearing in accordance with this
5 section and section 75-157, the commission may enter an order
6 assessing a civil penalty of up to one hundred dollars against any
7 person, firm, partnership, limited liability company, corporation,
8 cooperative, or association for failure to file an annual report or
9 pay the fee as required by section 75-116 and as prescribed by
10 commission rules and regulations or for failure to register as
11 required by section 86-125 and as prescribed by commission rules
12 and regulations. Each day during which the violation continues
13 after the commission has issued an order finding that a violation
14 has occurred constitutes a separate offense. Any party aggrieved
15 by an order of the commission under this section, except an order
16 assessing a civil penalty issued under subdivision (1)(b) of this
17 section, has the rights of appeal set forth in section 75-136.01.
18 For an order assessing a civil penalty issued under subdivision
19 (1)(b) of this section, any party aggrieved may appeal. The appeal
20 shall be in accordance with the Administrative Procedure Act.

21 (3) When any person or party is accused of any violation
22 listed in this section, the commission shall notify such person or
23 party in writing (a) setting forth the date, facts, and nature of
24 each act or omission upon which each charge of a violation is
25 based, (b) specifically identifying the particular statute,
26 certificate, permit, rule, regulation, or order purportedly
27 violated, (c) that a hearing will be held and the time, date, and
28 place of the hearing, (d) that in addition to the civil penalty,

1 the commission may enforce additional penalties and relief as
2 provided by law, and (e) that upon failure to pay any civil penalty
3 determined by the commission, the penalty may be collected by civil
4 action in the district court of Lancaster County.

5 Sec. 4. Section 75-305, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 75-305. For purposes of sustaining the administration
8 and enforcement of sections 75-301 to 75-322 as such sections
9 pertain to regulated motor carriers, there is hereby fixed an
10 application fee of ~~seventy-five~~ eighty dollars payable by the applicant at
11 the time of filing the application, except that such fee shall not
12 apply to applications under sections 75-303.01 and 75-303.02. In
13 addition thereto, every Every regulated motor carrier subject to
14 sections 75-301 to 75-322 shall pay an annual fee not exceeding the
15 sum of ~~twenty-five~~ eighty dollars for each motor vehicle operated,
16 which fee shall be fixed by the commission and shall not exceed the
17 amount actually necessary to sustain the administration and
18 enforcement of such sections. When the applicant has registered
19 his or her motor vehicles under section 60-305.09, such fee ~~of~~
20 ~~twenty-five dollars~~ shall be payable on whichever shall be the
21 lesser of (1) the proportion of his or her fleet so registered or
22 (2) the number of motor vehicles owned by him or her and actually
23 used in intrastate business within this state, except that such
24 annual fee for any truck-trailer or tractor-trailer combination
25 shall be ~~forty~~ one hundred twenty dollars. In the case of a
26 truck-trailer or tractor-trailer combination, only one license
27 plate shall be required for such combination. Such annual fees
28 shall be due and payable on or before January 1 and shall be

1 delinquent on March 1 of each year after such permit or certificate
2 has been issued. If the initial certificate or permit is issued to
3 a motor carrier on or after July 1, the fee shall be fifty percent
4 of the annual fee. Such fees shall be paid to and collected by the
5 commission and remitted to the State Treasurer within thirty days
6 of receipt for credit to the General Fund.

7 Sec. 5. Section 75-903, Revised Statutes Supplement,
8 2002, is amended to read:

9 75-903. All grain dealers doing business in this state
10 shall be licensed by the commission. If the applicant is an
11 individual, the application shall include the applicant's social
12 security number. To procure and maintain a license, each grain
13 dealer shall:

14 (1) Pay an annual fee of ~~thirty~~ sixty dollars which shall
15 be due on or before the date established by the commission for each
16 license and a registration fee not to exceed ~~twenty~~ forty dollars
17 per year for each vehicle used by such licensee to transport grain.
18 Such fees shall be paid to the State Treasurer and credited to the
19 ~~state~~ General Fund;

20 (2) Equip each vehicle used by the licensee for grain
21 transportation with a commercial license plate registered with the
22 Department of Motor Vehicles, except that a licensee who resides in
23 another state shall license such vehicles according to the laws of
24 his or her state of residence;

25 (3) Affix a grain dealer plate issued by the commission
26 to each vehicle used by the licensee;

27 (4) File security which may be a bond issued by a
28 corporate surety company and payable to the commission, an

1 irrevocable letter of credit, or a certificate of deposit, subject
2 to the approval of the commission, for the benefit of any producer
3 or owner within this state who files a valid claim arising from a
4 sale to or purchase from a grain dealer. The security shall be in
5 the amount of thirty-five thousand dollars or seven percent of
6 grain purchases by the grain dealer in the preceding license year
7 as reported on a form prescribed by the commission, whichever is
8 greater, not to exceed one hundred fifty thousand dollars. Such
9 security shall be furnished on the condition that the licensee will
10 pay for any grain purchased upon demand, not later than thirty days
11 after taking possession of the grain purchased. The liability of
12 the surety shall cover purchases and sales made or arranged by the
13 grain dealer during the time the bond is in force. A grain
14 dealer's bond filed with the commission shall be in continuous
15 force and effect until canceled by the surety. The liability of
16 the surety on any bond required by this section shall not
17 accumulate for each successive license period during which the bond
18 is in force; and

19 (5) File, as the commission may by rule or regulation
20 require, a financial statement of the licensee's operations as a
21 grain dealer.

22 Sec. 6. Section 88-529, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 88-529. The commission shall charge an annual license
25 fee for each warehouse to be operated, except as provided in
26 section 88-531. The fee for any license issued for less than
27 twelve months shall be prorated based on its duration. The annual
28 license fee shall be as provided in this section.

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1	Capacity in Bushels			Fee
2	0 —	10,000	\$ 30
3	10,001 —	25,000	38
4	25,001 —	50,000	45
5	50,001 —	75,000	53
6	75,001 —	100,000	.....	60
7	100,001 —	150,000	.....	68
8	150,001 —	200,000	.....	75
9	200,001 —	250,000	.....	83
10	250,001 —	300,000	.....	90
11	300,001 —	350,000	.....	98
12	350,001 —	400,000	.....	105
13	400,001 —	450,000	.....	113
14	450,001 —	500,000	.....	120
15	500,001 —	600,000	.....	128
16	600,001 —	700,000	.....	135
17	700,001 —	800,000	.....	143
18	800,001 —	900,000	.....	150
19	900,001 —	1,000,000	.....	158
20	1,000,001 —	2,000,000	.....	225
21	2,000,001 —	3,000,000	.....	263
22	3,000,001 —	4,000,000	.....	300
23	4,000,001 —	5,000,000	.....	338
24	5,000,001 —	6,000,000	.....	375
25	6,000,001 —	7,000,000	.....	413
26	7,000,001 —	8,000,000	.....	450
27	8,000,001 —	9,000,000	.....	488
28	9,000,001 —	10,000,000	.....	525

	LB 321		LB 321
1	10,000,001 — 11,000,000		563
2	11,000,001 — 15,000,000		713
3	15,000,001 — 20,000,000		900
4	20,000,001 — 25,000,000		1,088
5	25,000,001 — 30,000,000		1,275
6	30,000,001 — 40,000,000		1,650
7	40,000,001 or more		2,250
8	<u>Capacity in Bushels</u>		<u>Fee</u>
9	0 -- 10,000		\$ 45
10	10,001 -- 25,000		57
11	25,001 -- 50,000		68
12	50,001 -- 75,000		78
13	75,001 -- 100,000		90
14	100,001 -- 150,000		102
15	150,001 -- 200,000		113
16	200,001 -- 250,000		125
17	250,001 -- 300,000		135
18	300,001 -- 350,000		147
19	350,001 -- 400,000		156
20	400,001 -- 450,000		170
21	450,001 -- 500,000		180
22	500,001 -- 600,000		192
23	600,001 -- 700,000		203
24	700,001 -- 800,000		215
25	800,001 -- 900,000		225
26	900,001 -- 1,000,000		237
27	1,000,001 -- 2,000,000		338
28	2,000,001 -- 3,000,000		395

	LB 321		LB 321
1	<u>3,000,001 -- 4,000,000</u>		<u>450</u>
2	<u>4,000,001 -- 5,000,000</u>		<u>507</u>
3	<u>5,000,001 -- 6,000,000</u>		<u>563</u>
4	<u>6,000,001 -- 7,000,000</u>		<u>620</u>
5	<u>7,000,001 -- 8,000,000</u>		<u>675</u>
6	<u>8,000,001 -- 9,000,000</u>		<u>732</u>
7	<u>9,000,001 -- 10,000,000</u>		<u>788</u>
8	<u>10,000,001 -- 11,000,000</u>		<u>845</u>
9	<u>11,000,001 -- 15,000,000</u>		<u>1,070</u>
10	<u>15,000,001 -- 20,000,000</u>		<u>1,350</u>
11	<u>20,000,001 -- 25,000,000</u>		<u>1,632</u>
12	<u>25,000,001 -- 30,000,000</u>		<u>1,913</u>
13	<u>30,000,001 -- 40,000,000</u>		<u>2,475</u>
14	<u>40,000,001 or more</u>		<u>3,375</u>
15	Sec. 7. This act becomes operative on January 1, 2004.		
16	Sec. 8. Original sections 75-116, 75-305, and 88-529,		
17	Reissue Revised Statutes of Nebraska, and sections 75-128, 75-156,		
18	and 75-903, Revised Statutes Supplement, 2002, are repealed.		